IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.384 OF 2004

Sanjay S. Agarwal ...Applicant

Vs.

The State of Maharashtra ...Respondent

AND

CRIMINAL REVISION APPLICATION NO.373 OF 2004

Rahul K. Trivedi ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri Rajendra Shirodkar for the Applicant in both the Applications.
Shri Y.M.Nakhwa, A.P.P for the State in both the Applications.

CORAM : A. S. OKA, J.
DATE : OCTOBER 16, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Applicants and the learned A.P.P for the State. Criminal Revision Application No.384 of 2004 is filed by the accused No.7 and Criminal Revision Application No.373 of is filed by the accused No.8. The Applicants alongwith other accused persons have been chargesheeted in a Special Case where offences alleged are under section 489(B), 489(C) read with section 120-B and section 420 of the Indian Penal Code and under section 3(1)(ii), 3(2), 3(4) and section 4 of the Maharashtra

Control of Organised Crimes Act, 1999. The Applications made by the Applicants for discharge have been rejected by the learned Special Judge (MCOC Act), Nasik by a common Judgment and Order dated 16th July, 2004. The said order has been impugned in the revision Applications.

2. On 07th July, 2001 the Assistant General Manager of State Bank of India, Ahmednagar lodged a complaint. He stated that the Ahmednagar Shahar Sahakari Bank was having account with State Bank of India, Main Branch at Ahmednagar. It was stated that the said bank used to deposit cash with the State Bank of India. On 21st June, 2001 the said Ahmednagar Shahar Sahakari Bank, Main Branch, Ahmednagar deposited cash of Rs.4,00,000/- and cash of Rs.6,00,000/- on 25th June, 2001. The said cash was deposited in the currency notes of Rs.500/- denomination. Out of the total cash of Rs.10,00,000/-, 1950 currency notes were found to be fake. These fake notes were deposited by some unknown persons with the Ahmednagar Bank and subsequently, same notes were deposited in the State Bank.

3. According to the case of the prosecution, it

was revealed during the investigation that currency notes have been deposited by a co-accused Rajendra Shantilal Nahar at Ahmednagar Branch in May-June 2001 in his bank accounts. It was revealed that the said Rajendra in the month of May and June 2001 deposited fake currency notes of Rs.500/- and Rs.100/- denomination from time to time in his accounts. According to the prosecution case, for depositing the fake currency notes in his account, he offered certain commission to the Branch Manager of the branch of the Ahmednagar Bank.

4. Further allegation of the prosecution is that said Rajendra and his three Partners started production of gutkha at Ghodegaon in district Ahmednagar. According to the prosecution case one Sanjay Agarwal (Applicant in Revision Application No.384 of 2003) used to supply raw material to the factory. According to the prosecution case the business prospered for few months and thereafter the business collapsed and said persons suffered heavy losses. According to the prosecution case, real brother of the Applicant Sanjay Agarwal was caught red-handed while throwing fake currency notes on the persons of dancer ladies alongwith his friend one Rahul Trivedi who is the

Applicant in Revision Application No.373 of 2004. An offence was registered under sections 489-A, 489-B and 489-C of the Indian Penal Code against the said persons. According to the prosecution case, the Applicant Sanjay Agarwal invited Rajendra to Mumbai to help him in getting his brother released on bail in connection with the said case. According to the case of the prosecution as the said persons suffered heavy losses in their business, they entered into the business of fake currency notes.

5. In February 2001, co-accused Rajendra contacted the said Sanjay Agarwal on mobile phone and requested him to supply fake currency notes at reasonable rates. Accordingly, the said Sanjay instructed on phone to his another friend at Pune to supply fake currency notes to the said Rajendra. As per the request of Sanjay, one Pradeep Bhai @ Prakash handed over a parcel containing fake currency notes which was handed over by one Bharat to Rajendra. According to the case of the prosecution the said Rajendra also received a sum of Rs.5,00,000/- by fake currency notes of Rs.500/- denomination at a hotel at Pune and he received a further amount of Rs.7,00,000/- by fake currency notes of Rs.500/- at a hotel at Pune.

6. The said Rajendra had opened bank accounts in the two branches in the Ahmednagar Shahar Sahakari Bank in May 2001 and he deposited fake currency notes from time to time by offering some money to certain officers of Ahmednagar Branch.

7. A detailed proposal to apply provisions of the Maharashtra Control of Organised Crimes Act, 1999 was submitted and a sanction was granted on 20th August, 2001.

8. The learned counsel appearing for the Applicants submitted that in case of both the Applicants there was absolutely no material on record. He pointed out that even going by the assertions made in the affidavits filed by the prosecution it is obvious that there was no material whatsoever to proceed against both the Applicants. He pointed out that a reliance was placed by the prosecution on confessional statement of one Bharat Sanklecha for using the same against the Applicant in criminal Revision Application No.384 of 2004. He submitted that the confessional statement was in a totally different case and therefore, the same cannot be relied upon.

9. The learned A.P.P supported the impugned order by pointing out material on record against the Applicant. He submitted that no interference is called for at this stage.

10. I have considered the submissions. So far as the Applicant in Criminal Revision Application No.384 of 2004 is concerned, even if the confessional statement is kept aside there is other material on record. The other material is in the form of record of details of cell phone and land-line phone calls showing the telephonic conversation of the Applicant Sanjay with co-accused Rajendra, Bharat Sankhlecha and Pradeepbhai. There is other material on record in the form of entry of Rs.2,00,500/- in the name of the said Sanjay Agarwal in connection with exchange of parcel containing fake currency notes to co-accused Rajendra.

11. So far as the other Applicant Rahul is concerned, the prosecution is relying upon the material found during house search of absconding accused one Prakash at Pune. According to the prosecution case, at the time of search, Taxi ticket from Pune to Mumbai dated 12the August, 2001 having name of one Trivedi was

found. Five currency notes of Rs.500/- denomination were found out of which four were found to be fake. There were receipts of three A.C. railway tickets reservation from Nagpur to Mumbai in the name of K.P. Trivedi and R.P.Trivedi.

12. It is alleged that wife of the absconding accused Prakash is the real sister of the Applicant Rahul Trivedi. It appears that two sons of absconding accused Prakash were residing with the Applicant since 8 to 9 years.

13. At the stage of considering the Application for discharge, the only aspect which is to be seen is whether there is any material to show involvement of the accused persons. A detail scrutiny of the evidence is not required to be made. The sifting and weighing of evidence is required for only a limited purpose.

14. In the present case, the learned Trial Judge has rightly recorded a finding that there is a material on record to proceed against the Applicants. I find no error in the view taken by the learned Trial Judge. There is no merit in the revision Applications and the same are rejected. Nothing stated in this order shall

be construed as expression of any opinion on the merits

of the case at the time of trial.

JUDGE